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OFFICE OF PETITIONS

In re Application of :
Donald E. Weder :
Application No. 10/687,979 : ON PETITION
Filed: 17 October, 2003 :
Attorney Docket No. 8404.011 :

This is a decision on the renewed petition filed on 16 March, 2005, under 37 CFR 1.137(a)¹ to revive the above-identified application.

The petition is **granted**.

The application became abandoned on 16 September, 2004, for failure to timely file a response to the non-final Office action mailed on 15 June, 2004, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 25 January, 2005. The petition filed on 8 February, 2005, was dismissed on 8 March, 2005.

¹A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(1);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the Express Abandonment in favor of a continuing application filed on 8 February, 2005, is acknowledged, whereby petitioner requests the present application be revived for copendency with Application No. 11/035,288, filed on 8 February, 2005, which is a continuation of which the instant application.

Since this application is revived for purposes of continuity only with Application No. 11/035,288, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced continuing application.

The duplicate petition fee submitted with the present renewed petition is unnecessary. Petitioner may request a refund thereof by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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